

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part IX. Water Quality**

**Chapter 23. The LPDES Program**

**Subchapter A. Definitions and General Program Requirements**

**§2311. Purpose and Scope**

A. Scope of the LPDES Permit Requirement

1. The LPDES program requires permits ~~of~~ for the discharge of pollutants from any point source into waters of the state. The terms pollutant, point source, and waters of the state are defined in LAC 33:IX.2313.

~~2. The following are point sources requiring LPDES permits for discharges:~~

~~a. concentrated animal feeding operations as defined in LAC 33:IX.2335;~~

~~b. concentrated aquatic animal production facilities as defined in LAC 33:IX.2337;~~

~~c. discharges into aquaculture projects as set forth in LAC 33:IX.2339;~~

~~d. discharges of storm water as set forth in LAC 33:IX.2341; and~~

~~e. silvicultural point sources as defined in LAC 33:IX.2343.~~

32. The permit program established under LAC 33:IX.Chapter 23.Subchapters A-D also applies to owners or operators of any treatment works treating domestic sewage, whether or not the treatment works is otherwise required to obtain an LPDES permit in accordance with ~~LAC 33:IX.2311.Paragraph A.1 of this Section~~, unless all requirements implementing Section 405(d) of the CWA applicable to the treatment works treating domestic sewage are included in a permit issued under the appropriate provisions of Subtitle C of the Solid Waste Disposal Act, Part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under state permit programs approved by the administrator as adequate to assure compliance with Section 405 of the CWA.

43. The state administrative authority may designate any person subject to the standards for sewage sludge use and disposal as a treatment works treating domestic sewage as defined in LAC 33:IX.2313, where he or she finds that a permit is necessary to protect public health and the environment from the adverse effects of sewage sludge or to ensure compliance with the technical standards for sludge use and disposal developed under CWA Section 405(d). Any person designated as a treatment works treating domestic sewage shall submit an application for a permit under LAC 33:IX.2331 within 180 days of being notified by the state administrative authority that a permit is required. The state administrative authority's decision to designate a person as a treatment works treating domestic sewage under this Paragraph shall be stated in the fact sheet or statement of basis for the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

### §2313. Definitions

A. The following definitions apply to LAC 33:IX.Chapter 23.Subchapters A-G. Terms not defined in ~~the~~ this Section have the meaning given by the CWA. ~~When a defined term appears in a definition, the defined term is sometimes placed in quotation marks as an aid to readers.~~

\* \* \*

[See Prior Text]

*Animal Feeding Operation*—a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

a. animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

b. crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

\* \* \*

[See Prior Text]

*Aquaculture Project*—a defined managed water area that uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals.

\* \* \*

[See Prior Text]

*Bypass*—the intentional diversion of waste streams from any portion of a treatment facility.

\* \* \*

[See Prior Text]

*Concentrated Animal Feeding Operation*—an animal feeding operation that meets the criteria in LAC 33:IX.Chapter 23.Appendix B, or that the state administrative authority designates under LAC 33:IX.2335.C.

*Concentrated Aquatic Animal Production Facility*—a hatchery, fish farm, or other facility that meets the criteria in LAC 33:IX.Chapter 23.Appendix C, or that the state administrative authority designates under LAC 33:IX.2337.C.

\* \* \*

[See Prior Text]

*Municipal Separate Storm Sewer System*—as defined at LAC 33:IX.2341.B.4 and 7.

\* \* \*

[See Prior Text]

*Publicly Owned Treatment Works (POTW)*—~~any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a state or municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.~~ a treatment works, as defined by Section 212 of the Act, that is owned by a state or municipality (as defined by Section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality, as defined in Section 502(4) of the Act, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

\* \* \*

[See Prior Text]

*Silvicultural Point Source*—as defined at LAC 33:IX.2343.B.1.

\* \* \*

[See Prior Text]

*Sludge-Only Facility*—any treatment works treating domestic sewage whose methods of sewage sludge use or disposal are subject to regulations promulgated ~~in accordance with~~ pursuant to Section 405(d) of the CWA, and is required to obtain a permit under LAC 33:IX.2311.A.32.

\* \* \*

[See Prior Text]

*Storm Water*—storm water runoff, snow melt runoff, and surface runoff and drainage.

*Storm Water Discharge Associated With Industrial Activity*—as defined at LAC 33:IX.2341.B.14.

\* \* \*

[See Prior Text]

*Upset*—an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

\* \* \*

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

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**§2317. Prohibitions**

\* \* \*

[See Prior Text in A-A.9.a]

b. the existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards. The state administrative authority may waive the submission of information by the new source or new discharger required by this Paragraph if the state administrative authority determines that the state administrative authority already has adequate information to evaluate the request. An explanation of the development of limitations to meet the criteria of this Paragraph is to be included in the fact sheet to the permit under LAC 33:IX.2445.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

**Subchapter B. Permit Application and Special LPDES Program Requirements**

**§2331. Application for a Permit****A. Duty to Apply**

1. Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR Part 503, and who does not have an effective permit, except persons covered by general permits under LAC 33:IX.2345, excluded under LAC 33:IX.2315, or a user of a privately owned treatment works unless the state administrative authority requires otherwise under LAC 33:IX.2361.M, must submit a complete application ~~(which shall include a BMP program if necessary under LAC 33:IX.2565)~~ to the Office of Environmental Services, Permits Division in accordance with this Section and LAC 33:IX.Chapter 23.Subchapters E-G.

\* \* \*

[See Prior Text In A.2-G.6]

**7. Effluent Characteristics:**

a. Information on the discharge of pollutants specified in this SubParagraph (except information on storm water discharges which that is to be provided as specified in LAC 33:IX.2341). When quantitative data for a pollutant are required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136 (see LAC 33:IX.2531). When no analytical method is approved, the applicant may use any suitable method, but must provide a description of the method. When an applicant has two or more outfalls with substantially identical effluents, the state administrative authority may allow the applicant to test only one outfall and report that the quantitative data also apply to the substantially identical outfalls. The requirements in LAC

~~33:IX.2334.~~Subparagraphs G.7.e<sub>f</sub> and d<sub>g</sub> of this Section that an applicant must provide quantitative data for certain pollutants known or believed to be present do not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. For all other pollutants, 24-hour composite samples must be used. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours. In addition, for discharges other than storm water discharges, the state administrative authority may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that the minimum of four grab samples will be a representative sample of the effluent being discharged.

b. Storm Water Discharges. For storm water discharges, all samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area. For all applicants, a flow-weighted composite shall be taken for either the entire discharge or for the first three hours of the discharge. The flow-weighted composite sample for a storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of 15 minutes (applicants submitting permit applications for storm water discharges under LAC 33:IX.2341.D may collect flow weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots, subject to the approval of the state administrative authority). However, a minimum of one grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than 24 hours. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required. For storm water discharge samples, taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first 30 minutes (or as soon thereafter as practicable) of the discharge for all pollutants specified in LAC 33:IX.2341.C.1. For all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants specified in LAC 33:IX.2341 except pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. The state administrative authority may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples under 40 CFR Part 136 (see LAC 33:IX.2531), and additional time for submitting data on a case-by-case basis. An applicant is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous

analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility.)

~~a.i.c.~~ Reporting Requirements. Every applicant must report quantitative data for every outfall for the following pollutants:

- i.        biochemical oxygen demand (BOD<sub>5</sub>);
- ii.        chemical oxygen demand;
- iii.        total organic carbon;
- iv.        total suspended solids;
- v.        ammonia (as N);
- vi.        temperature (both winter and summer); and
- vii.        pH.

~~ii.d.~~ The state administrative authority may waive the reporting requirements for individual point sources or for a particular industry category for one or more of the pollutants listed in LAC 33:IX.2331.Subparagraph G.7.a.ic of this Section if the applicant has demonstrated that such a waiver is appropriate because information adequate to support issuance of a permit can be obtained with less stringent requirements.

~~b.e.~~ Each applicant with processes in one or more primary industry category (see LAC 33:IX.Chapter 23.Appendix A of this Chapter) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

i.       the organic toxic pollutants in the fractions designated in LAC 33:IX.Chapter 23.Appendix D, Table I of this Chapter for the applicant's industrial category or categories unless the applicant qualifies as a small business under LAC 33:IX.2331.Paragraph G.8 of this Section. LAC 33:IX.Chapter 23.Appendix D, Table II of this Chapter lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure ~~which that~~ uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes. [See Notes 2; and 3, and 4 of this Section.]

ii.       the pollutants listed in LAC 33:IX.Chapter 23.Appendix D, Table III of this Chapter (the toxic metals, cyanide, and total phenols).

~~e.f.i.~~ Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in LAC 33:IX.Chapter 23.Appendix D, Table IV of this Chapter (certain conventional and nonconventional pollutants) are discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged ~~which that~~ is not so limited in an effluent limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

ii. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants listed in LAC 33:IX.Chapter 23.Appendix D, Table II or III of this Chapter (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under LAC 33:IX.2331.Subparagraph G.7.be of this Section, are discharged from each outfall. For every pollutant expected to be

discharged in concentrations of 10 ppb or greater the applicant must report quantitative data. For acrolein, acrylonitrile, 2,4-dinitrophenol, and 2-methyl-4,6-dinitrophenol, where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or greater the applicant must report quantitative data. For every pollutant expected to be discharged in concentrations less than 10 ppb, or in the case of acrolein, acrylonitrile, 2,4-dinitrophenol, and 2-methyl-4,6-dinitrophenol, in concentrations less than 100 ppb, the applicant must either submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged. An applicant qualifying as a small business under ~~LAC 33:IX.2331~~ Paragraph G.8 of this Section is not required to analyze for pollutants listed in ~~LAC 33:IX. Chapter 23~~ Appendix D, Table II of this Chapter (the organic toxic pollutants).

~~d.g.~~ Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in ~~LAC 33:IX. Chapter 23~~ Appendix D, Table V of this Chapter (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.

~~eh.~~ Each applicant must report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

i. uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

ii. knows or has reason to believe that TCDD is or may be present in an effluent.

8. Small Business Exemption. An applicant ~~which~~ that qualifies as a small business under one of the following criteria is exempt from the requirements in ~~LAC 33:IX.2331~~ Clause G.7.b.e.i or ef.i of this Section to submit quantitative data for the pollutants listed in ~~LAC 33:IX. Chapter 23~~ Appendix D, Table II of this Chapter (the organic toxic pollutants):

\* \* \*

[See Prior Text in G.8.a-O]

Note 1: At 46 FR 2046, Jan. 8, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21 (g)(7)(iv)(A) (and ~~DEQ~~ the department hereby suspends LAC 33:IX.2331.G.7.b.e.i) and the corresponding portions of Item V-C of the NPDES (and LPDES) application Form 2C as they apply to coal mines. This revision continues that suspension.<sup>1</sup>

Note 2: At 46 FR 22585, Apr. 20, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21 (g)(7)(iv)(A) (and ~~DEQ~~ the department hereby suspends LAC 33:IX.2331.G.7.b.e.i) and the corresponding portions of Item V-C of the NPDES (and LPDES) application Form 2C as they apply to:

\* \* \*

[See Prior Text in Note 2.a-c]

This revision continues that suspension.<sup>1</sup>

Note 3: At 46 FR 35090, July 1, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21 (g)(7)(iv)(A) (and ~~DEQ~~the department hereby suspends LAC 33:IX.2331.G.7.b.i) and the corresponding portions of Item V-C of the NPDES (and LPDES) application Form 2C as they apply to:

\* \* \*

[See Prior Text in Note 3.a-e]

This revision continues that suspension.<sup>1</sup>

<sup>1</sup> EDITORIAL NOTE: The words "This revision" refer to the document published at 48 FR 14153, Apr. 1, 1983.

\* \* \*

[See Prior Text in P-Q.15]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:\*\*.

### **§2333. Signatories to Permit Applications and Reports**

\* \* \*

[See Prior Text in A-A.1.a]

b. the manager of one or more manufacturing, production, or operating facilities ~~employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if, provided: the~~ manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to ensure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and the authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

NOTE: ~~DEQ~~The department does not require specific assignments or delegations of authority to responsible corporate officers identified in ~~LAC 33:IX.2333.Subparagraph A.1.a of this Section~~. The agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the state administrative authority to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under ~~LAC 33:IX.2333.Subparagraph A.1.b of this Section~~ rather than to specific individuals.

\* \* \*

[See Prior Text in A.2-D]



AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

### **§2335. Concentrated Animal Feeding Operations**

\* \* \*

[See Prior Text in A]

#### **B. Definitions**

1. ~~*Animal Feeding Operation*~~—a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

a. ~~animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and~~

b. ~~crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.~~

2. Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

3. ~~*Concentrated Animal Feeding Operation*~~—an animal feeding operation which meets the criteria in LAC 33:IX, Chapter 23, Appendix B, or which the state administrative authority designates under LAC 33:IX.2335.C.

\* \* \*

[See Prior Text in C-C.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

### **§2337. Concentrated Aquatic Animal Production Facilities**

\* \* \*

[See Prior Text in A]

#### **B. Definition Reserved.**

~~*Concentrated Aquatic Animal Production Facility*~~—a hatchery, fish farm, or other facility which meets the criteria in LAC 33:IX, Chapter 23, Appendix C, or which the state administrative authority designates under LAC 33:IX.2337.C.

\* \* \*

[See Prior Text in C-C.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

**§2339. Aquaculture Projects**

\* \* \*

[See Prior Text in A]

**B. Definitions**

~~*Aquaculture Project*—a defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals.~~

*Designated Project Area*—the portions of the waters of the state within which the permittee or permit applicant plans to confine the cultivated species, using a method or plan or operation (including, but not limited to, physical confinement) ~~which~~ that, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

**§2341. Storm Water Discharges**

\* \* \*

[See Prior Text in A-B.7.b]

c. owned or operated by a municipality other than those described in ~~LAC 33:IX.2341.Subparagraph B.47.a or b of this Section~~ and that are designated by the state administrative authority as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under ~~LAC 33:IX.2341.Subparagraph B.47.a or b of this Section~~. In making this determination the state administrative authority may consider the following factors:

\* \* \*

[See Prior Text in B.7.c.i-B.12]

13. ~~*Storm Water*—storm water runoff, snow melt runoff, and surface runoff and drainage.~~ Reserved.

\* \* \*

[See Prior Text in B.14-C]

1. Individual Application. Dischargers of storm water associated with industrial activity and ~~of storm water associated~~ with small construction activity are required to apply for an individual permit, ~~apply for a permit through a group application,~~ or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit, or any discharge of storm water that the state administrative authority is evaluating for designation (see LAC 33:IX.2443.C) under Subparagraph A.1.e of this Section, and ~~is~~ are not a municipal separate storm sewer, ~~and that is not part of a group application described under Subsection C.2 of this Section,~~

shall submit an LPDES application in accordance with the requirements of LAC 33:IX.2331 as modified and supplemented by the provisions of the remainder of this Paragraph. ~~Applicants for discharges composed entirely of storm water shall submit Form 1 and Form 2F. Applicants for discharges composed of storm water and non-storm water shall submit Form 1, Form 2C, and Form 2F. Applicants for new sources or new discharges (as defined in LAC 33:IX.2313) composed of storm water and non-storm water shall submit Form 1, Form 2D, and Form 2F.~~

\* \* \*

[See Prior Text in C.1.a –a.v.(c)]

(d). any information on the discharge required under paragraph LAC 33:IX.2331.G.7.e~~f~~ and e~~g~~;

\* \* \*

[See Prior Text in C.1.a.v.(e)-(f)]

vi. operators of a discharge ~~which~~that is composed entirely of storm water are exempt from the requirements of LAC 33:IX.2331.G.2, 3, 4, 5, and 7.a~~c~~, d, b~~e~~, and e~~h~~; and

\* \* \*

[See Prior Text in C.1.a.vii-D.1.d.iv]

(a). a grid system consisting of perpendicular north-south and east-west lines spaced one-fourth mile apart shall be ~~overlayed~~overlaid on a map of the municipal storm sewer system, creating a series of cells;

\* \* \*

[See Prior Text in D.1.d.iv.(b)-2.b]

c. Characterization Data. When quantitative data for a pollutant are required under ~~LAC 33:IX.2341.Subclause D.42.c.i.(c) of this Section~~, the applicant must collect a sample of effluent in accordance with LAC 33:IX.2331.G.7 and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136 (see LAC 33:IX.2531). When no analytical method is approved, the applicant may use any suitable method, but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including:

\* \* \*

[See Prior Text in D.2.c.i-d.iii.(a)]

(b). describe a monitoring program for storm water discharges associated with the industrial facilities identified in ~~LAC 33:IX.2341.Clause D.2.d.iii of this Section~~, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing LPDES permit for a facility; oil and grease, COD, pH, BOD<sub>5</sub>, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under LAC 33:IX.2331.G.7.e~~f~~ and e~~g~~.

\* \* \*

[See Prior Text in D.2.d.iv-G.4.d]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2552 (November 2000), repromulgated LR 27:40 (January 2001), LR 28:\*\*.

### §2345. General Permits

A. Coverage. The state administrative authority may issue a general permit in accordance with the following:

1. Area. The general permit shall be written to cover a category one or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under ~~LAC 33:IX.2345~~, Subparagraph A.2.b of this Section, except those covered by individual permits, within a geographic area. The area shall correspond to existing geographic or political boundaries, such as:

\* \* \*

[See Prior Text in A.1.a-g]

2. Sources. The general permit may be written to regulate one or more categories or subcategories of discharges, sludge use, disposal practices, or facilities, within the area described in ~~LAC 33:IX.2345~~, Paragraph A.1 of this Section, where the sources within a covered subcategory of discharges are either:

a. storm water point sources; or  
b. a category one or more categories or subcategories of point sources other than storm water point sources, or a category one or more categories or subcategories of treatment works treating domestic sewage, if the sources or treatment works treating domestic sewage within each category or subcategory all:

\* \* \*

[See Prior Text in A.2.b.i-v]

3. Water Quality-Based Limits. Where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed in accordance with LAC 33:IX.2361, the sources in that specific category or subcategory shall be subject to the same water quality-based effluent limitations.

4. Other Requirements

a. The general permit must clearly identify the applicable conditions for each category or subcategory of dischargers or treatment works treating domestic sewage covered by the permit.

b. The general permit may exclude specified sources or areas from coverage.

B. Administration

1. In General. General permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of 40 CFR Part 124 or corresponding state regulations. Special procedures for issuance are found at 40 CFR 123.44 for states and ~~40 CFR 124.58 for EPA~~.

\* \* \*

[See Prior Text in B.2-C.3]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2276 (October 2000), LR 26:2553 (November 2000), LR 28:\*\*.

## **Subchapter C. Permit Conditions**

### **§2355. Conditions Applicable to All Permits**

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2357. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

\* \* \*

[See Prior Text in A-M]

#### **1. Definitions**

~~*Bypass*—the intentional diversion of waste streams from any portion of a treatment facility.~~

*Severe Property Damage*—substantial physical damage to property, damage to the treatment facilities ~~which that~~ causes them to become inoperable, or substantial and permanent loss of natural resources ~~which that~~ can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

\* \* \*

[See Prior Text in M.2-N.4]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

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### **§2359. Establishing Permit Conditions**

\* \* \*

[See Prior Text in A]

**B.1.** For a state issued permit, an applicable requirement is a state statutory or regulatory requirement ~~which that~~ takes effect prior to final administrative disposition of a permit. For a permit issued by EPA, an applicable requirement is a statutory or regulatory requirement (including any interim final regulation) ~~which that~~ takes effect prior to the issuance of the permit ~~(except as provided in 40 CFR 124.86 (c) for NPDES permits being processed under 40 CFR part 124, subparts E or F).~~ Section LAC 33:IX.2423 for the state and 40 CFR 124.14 for EPA (reopening of comment period)

provides a means for reopening permit proceedings at the discretion of the ~~director~~ state administrative authority ~~where~~ when new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. For state-administered and EPA-administered programs, an applicable requirement is also any requirement ~~which~~ that takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in LAC 33:IX.2383.

\* \* \*

[See Prior Text in B.2-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

### **§2361. Establishing Limitations, Standards, and Other Permit Conditions**

~~In addition to the conditions established under LAC 33:IX.2359.A, each LPDES permit shall include conditions meeting the following requirements when applicable.~~

A.1. Technology-based effluent limitations and standards based on effluent limitations and standards promulgated under Section 301 of the CWA or new source performance standards promulgated under Section 306 of the CWA, on case-by-case effluent limitations determined under Section 402(a)(1) of the CWA, or on a combination of the ~~two~~three, in accordance with LAC 33:IX.2469. For new sources or new dischargers, these technology-based limitations and standards are subject to the provisions of 40 CFR 122.29(d) (protection period).

#### 2. Monitoring Waivers for Certain Guideline-Listed Pollutants

a. The state administrative authority may authorize a discharger subject to technology-based effluent limitations guidelines and standards in a LPDES permit to forego sampling of a pollutant found in LAC 33:IX.2533 if the discharger has demonstrated through sampling and other technical factors that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

b. This waiver is good only for the term of the permit and is not available during the term of the first permit issued to a discharger.

c. Any request for this waiver must be submitted when applying for a reissued permit or modification of a reissued permit. The request must demonstrate through sampling or other technical information, including information generated during an earlier permit term, that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

d. Any grant of the monitoring waiver must be included in the permit as an express permit condition and the reasons supporting the grant must be documented in the permit's fact sheet or statement of basis.

e. This provision does not supersede certification processes and requirements already established in existing effluent limitations guidelines and standards.

\* \* \*

[See Prior Text in B.1-2]

C. Reopener Clause: ~~for any discharger within a primary industry category (see LAC 33:IX. Chapter 23. Appendix A), requirements under section 307(a)(2) of the CWA as follows:~~

~~1. on or before June 30, 1981:~~

~~a. if applicable standards or limitations have not yet been promulgated, the permit shall include a condition stating that, if an applicable standard or limitation is promulgated under sections 301(b)(2) (C) and (D), 304(b)(2), and 307(a)(2) of the CWA and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the permit, the permit shall be promptly modified or revoked and reissued to conform to that effluent standard or limitation.~~

~~b. if applicable standards or limitations have been promulgated or approved, the permit shall include those standards or limitations.~~

~~2. on or after the statutory deadline set forth in section 301(b)(2)(A), (C), and (E) of the CWA, any permit issued shall include effluent limitations to meet the requirements of section 301(b)(2)(A), (C), (D), (E), and (F) of the CWA, whether or not applicable effluent limitations guidelines have been promulgated or approved. These permits need not incorporate the clause required by LAC 33:IX.2361.C.1.~~

~~3. the state administrative authority shall promptly modify or revoke and reissue any permit containing the clause required under LAC 33:IX.2361.C.1 to incorporate an applicable effluent standard or limitation under sections 301(b)(2)(C) and (D), 304(b)(2) and 307(a)(2) of the CWA which is promulgated or approved after the permit is issued if that effluent standard or limitation is more stringent than any effluent limitation in the permit, or controls a pollutant not limited in the permit.~~

4. For any permit issued to a treatment works treating domestic sewage (including sludge-only facilities), the state administrative authority shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under Section 405(d) of the CWA. The state administrative authority may promptly modify or revoke and reissue any permit containing the reopener clause required by this ~~paragraph~~ Subsection if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

\* \* \*

[See Prior Text in D-D.9]

E. Technology-Based Controls for Toxic Pollutants. Limitations established under ~~LAC 33:IX.2361. Subsection A, B, or D of this Section~~, to control pollutants meeting the criteria listed in ~~LAC 33:IX.2361. Paragraph E.1 of this Section~~. Limitations will be established in accordance with ~~LAC 33:IX.2361. Paragraph E.2 of this Section~~. An explanation of the development of these limitations shall be included in the fact sheet under LAC 33:IX.2445.~~B.1.a.A.2.a.i.~~

1. Limitations must control all toxic pollutants ~~which~~ that the state administrative authority determines (based on information reported in a permit application under LAC 33:IX.2331.G.7 or ~~40~~ or in a notification under LAC 33:IX.2357.A.1 or on other information) are or may be discharged at a level greater than

the level ~~which~~ that can be achieved by the technology-based treatment requirements appropriate to the permittee under LAC 33:IX.2469.C; or

\* \* \*

[See Prior Text in E.2-J.3]

K. Best management practices (BMPs) to control or abate the discharge of pollutants when:

\* \* \*

[See Prior Text in K.1-2]

3. ~~the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA and the LEQA~~ numeric effluent limitations are infeasible; or

4. ~~numeric effluent limitations are infeasible~~ the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA and the LEQA.

NOTE: Additional technical information on BMPs and the elements of BMPs is contained in the following documents: Guidance Manual for Developing Best Management Practices (BMPs), October 1993, EPA No. 833/B-93-004, NTIS No. PB 94-178324, ERIC No. W498; Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, September 1992, EPA No. 832/R-92-005, NTIS No. PB 92-235951, ERIC No. N482; Storm Water Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-001, NTIS No. PB 93-223550, ERIC No. W139; Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices, September 1992; EPA No. 832/R-92-006, NTIS No. PB 92-235969, ERIC No. N477; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-002, NTIS No. PB 94-133782, ERIC No. W492. Copies of these documents (or directions on how to obtain them) can be obtained by contacting either the Office of Water Resource Center (using the EPA document number as a reference ) at (202) 260-7786 or the Educational Resources Information Center (ERIC) (using the ERIC number as a reference) at (800) 276-0462. Updates of these documents or additional BMP documents may also be available. A list of EPA BMP guidance documents is available on the Office of **Waste Water** Management Home Page at <http://www.epa.gov/owm>. In addition, states may have BMP guidance documents. These EPA guidance documents are listed here only for informational purposes; they are not binding and EPA does not intend that these guidance documents have any mandatory regulatory effect by virtue of their listing in this note.

\* \* \*

[See Prior Text in L-P]

Q. Navigation. Any conditions that the secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired, in accordance with 40 CFR 124.589.

\* \* \*

[See Prior Text in R-R.2]



S. In addition to the conditions established under LAC 33:IX.2359.A, each LPDES permit shall include conditions meeting the requirements in Subsections A-R of this Section, when applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), LR 26:2764 (December 2000), LR 28:\*\*.

### **§2363. Calculating LPDES Permit Conditions**

\* \* \*

[See Prior Text in A-G.5]

#### **H. Internal Waste Streams**

1. When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by LAC 33:IX.2363~~1~~.I shall also be applied to the internal waste streams.

\* \* \*

[See Prior Text in H.2-I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 28:\*\*.

### **Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination of Permits**

### **§2383. Modification or Revocation and Reissuance of Permits**

A. When the state administrative authority receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see LAC 33:IX.2355), receives a request for modification or revocation and reissuance under LAC 33:IX.2407, or conducts a review of the permit file) he or she may determine whether or not one or more of the causes listed in Subsections A and B of this Section for modification or revocation and reissuance or both exist. If cause exists, the state administrative authority may modify or revoke and reissue the permit accordingly, subject to the limitations of LAC 33:IX.2407.B<sub>2</sub> and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (see LAC 33:IX.2407.B.2). If cause does not exist under this Section or LAC 33:IX.2385, the

state administrative authority shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in LAC 33:IX.2385 for minor modifications, the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in LAC 33:IX.Chapter 23.Subchapters E and F followed.

~~A~~1. Causes for Modification. The following are causes for modification but not revocation and reissuance of permits except when the permittee requests or agrees.

~~1~~a. Alterations. There are material and substantial alterations or additions to the permitted facility or activity (including a change or changes in the permittee's sludge use or disposal practice) ~~which that~~ occurred after permit issuance ~~which that~~ justify the application of permit conditions that are different or absent in the existing permit.

NOTE: Certain reconstruction activities may cause the new source provisions of 40 CFR 122.29 to be applicable.

~~2~~b. Information. The state administrative authority has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For LPDES general permits (LAC 33:IX.2345) this cause includes any information indicating that cumulative effects on the environment are unacceptable. For new source or new discharger LPDES permits (LAC 33:IX.2331, 40 CFR 122.29), this cause shall include any significant information derived from effluent testing required under LAC 33:IX.2331.K.5.f or H.4.c after issuance of the permit.

~~3~~c. New Regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

~~a~~i. for promulgation of amended standards or regulations, when:

~~i~~(a). the permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA approved or promulgated water quality standards, or the secondary treatment regulations under LAC 33:IX.Chapter 23.Subchapter S; and

~~ii~~(b). EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit condition was based, or has approved a state action with regard to a water quality standard on which the permit condition was based; and

~~iii~~(c). a permittee requests modification in accordance with LAC 33:IX.2407 within 90 days after *Federal Register* notice of the action on which the request is based;

~~b~~ii. for judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the remand and stay concern that portion of the regulations or guidelines on

which the permit condition was based and a request is filed by the permittee in accordance with LAC 33:IX.2407 within 90 days of judicial remand;

eiii. for changes based upon modified state certifications of NPDES permits, see 40 CFR 124.55(b).

4d. Compliance Schedules. The state administrative authority determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. However, in no case may an LPDES compliance schedule be modified to extend beyond an applicable CWA statutory deadline. See also LAC 33:IX.2385 (minor modifications) and ~~LAC 33:IX.2383.A.14~~ Subparagraph A.1.n of this Section (LPDES innovative technology).

5e. When the permittee has filed a request for a variance under CWA Section 301(c), 301(g), 301(h), 301(i), 301(k), or 316(a) or for fundamentally different factors within the time specified in LAC 33:IX.2331 or 40 CFR 125.72(a).

6f. 307(a) Toxics. When required to incorporate an applicable CWA Section 307(a) toxic effluent standard or prohibition (see LAC 33:IX.2361.B).

7g. Reopener. When required by the reopener conditions in a permit, which are established in the permit under LAC 33:IX.2361.C (for CWA toxic effluent limitations and standards for sewage sludge use or disposal, see also LAC 33:IX.2361.B) or 2719.E (pretreatment program).

8h.aj. Net Limits. Upon request of a permittee who qualifies for effluent limitations on a net basis under LAC 33:IX.2363.G.

bii. When a discharger is no longer eligible for net limitations, as provided in LAC 33:IX.2363.~~HG~~.1.b.

9i. Pretreatment. As necessary under LAC 33:IX.2715.E (compliance schedule for development of pretreatment program).

10j. Failure to Notify. Upon failure of an approved state to notify, as required by the CWA Section 402(b)(3), another state whose waters may be affected by a discharge from the approved state.

11k. Non-Limited Pollutants. When the level of discharge of any pollutant ~~which that~~ is not limited in the permit exceeds the level ~~which that~~ can be achieved by the technology-based treatment requirements appropriate to the permittee under LAC 33:IX.2469.C.

12l. Notification Levels. To establish a notification level as provided in LAC 33:IX.2361.F.

13m. Compliance Schedules. To modify a schedule of compliance to reflect the time lost during construction of an innovative or alternative facility, in the case of a POTW ~~which that~~ has received a grant under Section 202(a)(3) of the CWA for 100 percent of the costs to modify or replace facilities constructed with a grant for innovative and alternative wastewater technology under Section 202(a)(2) of the CWA. In no case shall the compliance schedule be modified to extend beyond an applicable CWA statutory deadline for compliance.

14n. For a small MS4, to include an effluent limitation requiring implementation of a minimum control measure or measures as specified in LAC 33:IX.2349.B when:

~~a~~i. the permit does not include such measure(s) based upon the determination that another entity was responsible for implementation of the requirement(s); and

~~b~~ii. the other entity fails to implement measure(s) that satisfy the requirement(s).

~~45~~o. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions.

~~46~~p. When the discharger has installed the treatment technology considered by the permit writer in setting effluent limitations imposed under Section 402(a)(1) of the CWA and has properly operated and maintained the facilities but nevertheless has been unable to achieve those effluent limitations. In this case, the limitations in the modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by a subsequently promulgated effluent limitations guideline).

~~47~~q. Reserved

~~48~~r. Land Application Plans. When required by a permit condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise an existing land application plan, or to add a land application plan.

~~B~~2. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

~~4~~a. cause exists for termination under LAC 33:IX.2387 or 2769, and the state administrative authority determines that modification or revocation and reissuance is appropriate;

~~2~~b. the state administrative authority has received notification (as required in the permit, see LAC 33:IX.2355.L.3) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (LAC 33:IX.2381.B) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

~~E~~3. Upon modification or revocation and reissuance of a permit for a privately-owned sewage treatment facility regulated by the Public Service Commission, the permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2283 (October 2000), LR 27:45 (January 2001), LR 28:\*\*\*.

## **§2387. Termination of Permits**

\* \* \*

[See Prior Text in A-A.5]

B. The state administrative authority shall follow the applicable procedures in 40 CFR Part 124 or state procedures in terminating any LPDES permit under this

Section-, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the state administrative authority may terminate the permit by notice to the permittee. Termination by notice shall be effective 30 days after notice is sent, unless the permittee objects within that time. If the permittee objects during that period, the state administrative authority shall follow 40 CFR Part 124 or applicable state procedures for termination. Expedited permit termination procedures are not available to permittees that are subject to pending state and/or federal enforcement actions, including citizen suits brought under state or federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending state or federal enforcement actions, including citizen suits brought under state or federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

## **Subchapter E. General Program Requirements**

### **§2403. Definitions**

A. In addition to the definitions given in LAC 33:IX.2313 and 40 CFR 123.2 (LPDES); and 501.2 (sludge management), the definitions below apply to LAC 33:IX.Chapter 23.Subchapters E-G.

*Administrator*—the administrator of the U.S. Environmental Protection Agency, or an authorized representative.

~~*Applicable Standards and Limitations*—all state, interstate, and federal standards and limitations to which a discharge, a sludge use or disposal practice, or a related activity is subject under the CWA, including standards for sewage sludge use or disposal, effluent limitations, water quality standards, standards of performance, toxics effluent standards or prohibitions, best management practices, and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of the CWA.~~

*Application*—the standard forms for applying for a permit, including any additions, revisions, or modifications to the forms or forms approved by EPA for use in approved states, including any approved modifications or revisions.

*Appropriate Act and Regulations*—the Clean Water Act (CWA) and applicable regulations promulgated under those statutes. In the case of an approved state program, appropriate Act and regulations includes program requirements.

~~*Consultation with the EPA Regional Administrator* (LAC 33:IX.2451.A.2)—review by the EPA regional administrator following evaluation by a panel of the technical merits of all 301(k) applications approved by the director. The panel (to be appointed by the EPA's director of the Office of Water Enforcement and Permits) will consist of EPA headquarters, EPA regional, and state personnel familiar with the industrial category in question.~~

CWA—the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act of Federal Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217 and Pub. L. 95-576; 33 U.S.C. 1251 et seq.

\* \* \*

[See Prior Text]

*State Administrative Authority*—the chief administrative officer of any state, interstate, or tribal agency operating an approved program, or the delegated representative of the state administrative authority.

~~*Variance (LPDES)*—any mechanism or provision under section 301 or 316 of the CWA or under LAC 33:IX. Chapter 23. Subchapters H-M and O-Q, or in the applicable effluent limitations guidelines which allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of the Act. This includes provisions which allow the establishment of alternative limitations based on fundamentally different factors or on sections 301(c), 301(g), 301(h), 301(i), or 316(a) of the Act.~~

\* \* \*

[See Prior Text in B]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

## **§2407. Modification, Revocation and Reissuance, or Termination of Permits**

\* \* \*

[See Prior Text in A-B.3]

C.1. If the state administrative authority tentatively decides to terminate a permit under LAC 33:IX.2387.A or 2769, (for EPA-issued NPDES permits, only at the request of the permittee) or a permit under LAC 33:IX.2387.B (where the permittee objects), he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit ~~which~~ that follows the same procedures as any draft permit prepared under LAC 33:IX.2409.

2. In the case of EPA-issued permits, a notice of intent to terminate or a complaint shall not be issued if the regional administrator and the permittee agree to termination in the course of transferring permit responsibility to an approved state under 40 CFR 123.24(b)(1) (NPDES) or 40 CFR 501.14(b)(1) (sludge). In addition, termination of an NPDES permit for cause in accordance with LAC 33:IX.2387.B may be accomplished by providing written notice to the permittee, unless the permittee objects.

\* \* \*

[See Prior Text in D]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:725 (June 1997), LR 23:1524 (November 1997), amended by the Office of the Secretary, LR

25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

#### **§2415. Public Notice of Permit Actions and Public Comment Period**

\* \* \*

[See Prior Text in A-D.1.f]

g. for LPDES permits only (including those for sludge-only facilities), a general description of the location of each existing or proposed discharge point, ~~and~~ the name of the receiving water, ~~and~~ the sludge use and disposal practice(s), ~~and~~ the location of each sludge treatment works treating domestic sewage, and use or disposal sites known at the time of permit application. ~~For draft general permits, this requirement will be satisfied by a map or description of the permit area.~~ For EPA-issued NPDES permits only, if the discharge is from a new source, a statement as to whether an environmental impact statement will be or has been prepared;

\* \* \*

[See Prior Text in D.1.h-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 28:\*\*.

#### **§2423. Reopening of the Public Comment Period**

\* \* \*

[See Prior Text in A.1-C]

~~D. For LPDES permits, the EPA regional administrator may also, in the circumstances described above, elect to hold further proceedings. This decision may be combined with any of the actions enumerated in LAC 33:IX.2423.A.~~

E.D. Public notice of any of the above actions shall be issued under LAC 33:IX.2415.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

#### **§2425. Issuance and Effective Date of Permit**

A. After the close of the public comment period under LAC 33:IX.2415 on a draft permit, the state administrative authority shall issue a final permit decision. The state administrative authority shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for ~~contesting~~appealing a decision on an LPDES

permit. For the purposes of this Section, a final permit decision means a final decision to issue, deny, modify, or revoke and reissue, or terminate a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

## **Subchapter F. Specific Decisionmaking Procedures Applicable to LPDES Permits**

### **§2445. Fact Sheets**

A. In addition to meeting the requirements of LAC 33:IX.2413, LPDES fact sheets shall contain:

A1. ~~A~~any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions or standards for sewage sludge use or disposal, including a citation to the applicable effluent limitation guideline, performance standard, or standard for sewage sludge use or disposal as required by LAC 33:IX.2317 and reasons why they are applicable or an explanation of how the alternate effluent limitations were developed;

B2.4a. ~~W~~hen the draft permit contains any of the following conditions, an explanation of the reasons why such conditions are applicable:

ai. limitations to control toxic pollutants under LAC 33:IX.2361.E;

bii. limitations on internal waste streams under LAC 33:IX.2363.I; ~~or~~

eiii. limitations on indicator pollutants under LAC 33:IX.2469.G-1;

div. limitations set on a case-by-case basis under LAC 33:IX.2469.C.2 or 3, or ~~pursuant to~~ in accordance with Section 405(d)(4) of the CWA;

v. limitations to meet the criteria for permit issuance under LAC 33:IX.2317.A.9; or

vi. waivers from monitoring requirements granted under LAC 33:IX.2361.A;

2b. ~~F~~or every permit to be issued to a treatment works owned by a person other than a state or municipality, an explanation of the state administrative authority's decision on regulation of users under LAC 33:IX.2361.M;

€3. ~~W~~hen appropriate, a sketch or detailed description of the location of the discharge or regulated activity described in the application;

D4. ~~F~~or EPA-issued NPDES permits, the requirements of any state certification under 40 CFR 124.53; and

E5. ~~F~~or permits that include a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), a brief description of how each of the required elements of the land application plan are addressed in the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).



HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

**Subchapter K. Criteria and Standards for Determining Fundamentally Different Factors Under Sections 301(b)(1)(A), 301(b)(2)(A), and (E) of the Act**

**§2505. Method of Application**

A. Written request for a variance under this Subchapter shall be submitted in duplicate to the state administrative authority in accordance with ~~40 CFR part 124, subpart F~~ LAC 33:IX.2331.L.1 and LAC 33:IX.2405.

\* \* \*

[See Prior Text in B-B.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

**Subchapter P. Criteria and Standards for Best Management Practices Authorized Under Section 304(e) of the Act - Reserved**

**§2560. Effective Date**

Repealed.

~~The state hereby suspends this Subchapter until further notice.~~

~~[Note: LAC 33:IX. Chapter 23. Subchapter P mirrors 40 CFR 125 Subpart K. The effect of these federal regulations was stayed until further notice by the U.S. Environmental Protection Agency (44 FR 47063, August 10, 1979, and 45 FR 17997, March 20, 1980). Therefore, to maintain equivalency with the federal regulations, the state hereby suspends this Subchapter until further notice.]~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 23:199 (February 1997), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

**§2561. Purpose and Scope**

Repealed.

~~This Subchapter describes how best management practices (BMPs) for ancillary industrial activities under section 304(e) of the Act shall be reflected in permits, including best management practices promulgated in effluent limitations under section 304 of the Act and established on a case by case basis in permits under section 402(a)(1) of the Act. Best management practices authorized by section 304(e) of the Act are included in permits as requirements for the purposes of section 301, 302, 306, 307, or 403 of the Act, as the case may be.~~

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

### **§2563. Definition**

Repealed.

~~Manufacture~~ to produce as an intermediate or final product, or by product.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

### **§2565. Applicability of Best Management Practices**

Repealed.

~~A. Dischargers who use, manufacture, store, handle or discharge any pollutant listed as toxic under section 307(a)(1) of the Act or any pollutant listed as hazardous under section 311 of the Act are subject to the requirements of this Subchapter for all activities which may result in significant amounts of those pollutants reaching waters of the state. These activities are ancillary manufacturing operations including: materials storage areas; in plant transfer, process and material handling areas; loading and unloading operations; plant site runoff; and sludge and waste disposal areas.~~

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

### **§2567. Permit Terms and Conditions**

Repealed.

~~A. Best management practices shall be expressly incorporated into a permit where required by an applicable promulgated effluent limitations guideline under section 304(e) of the Act.~~

~~B. Best management practices may be expressly incorporated into a permit on a case-by-case basis where determined necessary to carry out the provisions of the Act under section 402(a)(1). In issuing a permit containing BMP requirements, the state administrative authority shall consider the following factors:~~

- ~~1. toxicity of the pollutant(s);~~
- ~~2. quantity of the pollutant(s) used, produced, or discharged;~~
- ~~3. history of LPDES permit violations;~~
- ~~4. history of significant leaks or spills of toxic or hazardous pollutants;~~
- ~~5. potential for adverse impact on public health (e.g., proximity to a public water supply) or the environment (e.g., proximity to a sport or commercial fishery); and~~

~~6. any other factors determined to be relevant to the control of toxic or hazardous pollutants.~~

~~C. Best management practices may be established in permits under LAC 33:IX.2567.B alone or in combination with those required under LAC 33:IX.2567.A.~~

~~D. In addition to the requirements of LAC 33:IX.2567.A and B, dischargers covered under LAC 33:IX.2565 shall develop and implement a best management practices program in accordance with LAC 33:IX.2569 which prevents, or minimizes the potential for, the release of toxic or hazardous pollutants from ancillary activities to waters of the state.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

### **§2569. Best Management Practices Programs**

Repealed.

~~A. BMP programs shall be developed in accordance with good engineering practices and with the provisions of this Subchapter.~~

~~B. The BMP program shall:~~

~~1. be documented in narrative form, and shall include any necessary plot plans, drawings or maps;~~

~~2. establish specific objectives for the control of toxic and hazardous pollutants:~~

~~a. each facility component or system shall be examined for its potential for causing a release of significant amounts of toxic or hazardous pollutants to waters of the state due to equipment failure, improper operation, natural phenomena such as rain or snowfall, etc;~~

~~b. where experience indicates a reasonable potential for equipment failure (e.g., a tank overflow or leakage), natural condition (e.g., precipitation), or other circumstances to result in significant amounts of toxic or hazardous pollutants reaching surface waters, the program should include a prediction of the direction, rate of flow and total quantity of toxic or hazardous pollutants which could be discharged from the facility as a result of each condition or circumstance;~~

~~3. establish specific best management practices to meet the objectives identified under LAC 33:IX.2569.B.2, addressing each component or system capable of causing a release of significant amounts of toxic or hazardous pollutants to the waters of the state;~~

~~4. the BMP program:~~

~~a. may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under section 311 of the Act and 40 CFR part 151, and may incorporate any part of such plans into the BMP program by reference;~~

[Comment: EPA has proposed section 311(j)(1)(c) regulations (43 FR 39276) which require facilities subject to LPDES to develop and implement SPCC plans to prevent discharges of reportable quantities of designated hazardous substances. While LAC 33:IX.Chapter 23.Subchapter P requires only procedural activities and minor

construction, the proposed 40 CFR part 151 (SPCC regulations) are more stringent and comprehensive with respect to their requirements for spill prevention. In developing BMP programs in accordance with LAC 33:IX, Chapter 23, Subchapter P, owners or operators should also consider the requirements of proposed 40 CFR Part 151 which may address many of the same areas of the facility covered by LAC 33:IX, Chapter 23, Subchapter P.]

b. ~~shall assure the proper management of solid and hazardous waste in accordance with regulations promulgated under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA) (40 U.S.C. 6901 et seq.). Management practices required under RCRA regulations shall be expressly incorporated into the BMP program; and~~

c. ~~shall address the following points for the ancillary activities in LAC 33:IX.2565:~~

- ~~i. statement of policy;~~
- ~~ii. spill control committee;~~
- ~~iii. material inventory;~~
- ~~iv. material compatibility;~~
- ~~v. employee training;~~
- ~~vi. reporting and notification procedures;~~
- ~~vii. visual inspections;~~
- ~~viii. preventive maintenance;~~
- ~~ix. housekeeping; and~~
- ~~x. security.~~

[~~Comment: Additional technical information on BMPs and the elements of a BMP program is contained in a publication entitled "Guidance Manual for Developing Best Management Practices (BMP)." Copies may be obtained by written request to Office of Water Resource Center (mail code: 4100) Environmental Protection Agency, Washington, D.C. 20460.~~]

C. ~~1. The BMP program must be clearly described and submitted as part of the permit application. An application which does not contain a BMP program shall be considered incomplete. Upon receipt of the application, the state administrative authority shall approve or modify the program in accordance with the requirements of this Subchapter. The BMP program as approved or modified shall be included in the draft permit (LAC 33:IX.2409). The BMP program shall be subject to the applicable permit issuance requirements of LAC 33:IX, Chapter 23, Subchapter H-M and O-Q, resulting in the incorporation of the program (including any modifications of the program resulting from the permit issuance procedures) into the final permit.~~

~~2. Proposed modifications to the BMP program which affect the discharger's permit obligations shall be submitted to the state administrative authority for approval. If the state administrative authority approves the proposed BMP program modification, the permit shall be modified in accordance with LAC 33:IX.2383, provided that the state administrative authority may waive the requirements for public notice and opportunity for hearing on such modification if he or she determines that the modification is not significant. The BMP program, or modification thereof, shall be fully implemented as soon as possible but not later than one year after permit issuance, modification, or~~

~~revocation and reissuance unless the state administrative authority specifies a later date in the permit.~~

~~[NOTE: A later date may be specified in the permit, for example, to enable coordinated preparation of the BMP program required under these regulations and the SPCC plan required under 40 CFR Part 151 or to allow for the completion of construction projects related to the facility's BMP or SPCC program.]~~

~~D. The discharger shall maintain a description of the BMP program at the facility and shall make the description available to the state administrative authority upon request.~~

~~E. The owner or operator of a facility subject to this Subchapter shall amend the BMP program in accordance with the provisions of this Subchapter whenever there is a change in facility design, construction, operation, or maintenance which materially affects the facility's potential for discharge of significant amounts of hazardous or toxic pollutants into the waters of the state.~~

~~F. If the BMP program proves to be ineffective in achieving the general objective of preventing the release of significant amounts of toxic or hazardous pollutants to those waters and the specific objectives and requirements under LAC 33:IX.2569.B, the permit and/or the BMP program shall be subject to modification to incorporate revised BMP requirements.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.

## **Subchapter T. General Pretreatment Regulations for Existing and New Sources of Pollution**

### **§2705. Definitions**

A. For purposes of this Subchapter, except as discussed below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this regulation.

\* \* \*

[See Prior Text]

*Pretreatment ~~Requirements~~*—any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

*Publicly Owned Treatment Works or POTW*—a treatment works as defined by section 212 of the Act, which is owned by a state or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

*Significant Industrial User—*

\* \* \*

[See Prior Text in A.Significant Industrial User.a-Editorial Note]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28

**§2733. Bypass**

## A. Definitions

~~*Bypass*—the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.~~

*Severe Property Damage*—substantial physical damage to property, damage to the treatment facilities ~~which~~ that causes them to become inoperable, or substantial and permanent loss of natural resources ~~which~~ that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

\* \* \*

[See Prior Text in B-D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:\*\*.